

Docket No.: X-9281

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applic. No. : 10/776,689 Conf. No.: 3830  
Applicant : Scott Dresden  
Filed : February 2, 2004  
Art Unit : 2452  
Examiner : Dohm Chankong  
Title : Statistical and Voyeuristic Link Behavioral  
Tracking and Presentation Tools

Docket No. : X-9281  
Customer No. : 24131

Hon. Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

R E P L Y   B R I E F

S i r :

Responsive to the Examiner's Answer dated June 3, 2010, kindly  
consider the following remarks:

**Remarks/Arguments** begin on page 2 of this paper.

## REMARKS

Appellant provides the following remarks in response to the Examiner's Answer dated June 3, 2010.

### Claim 8:

The Examiner states that Appellant's argument incorrectly focuses on how Santos and Duckett use their inventions. Appellant discusses the way in which Santos et al. and Duckett et al. use their inventions because that is central to understanding what is taught to one of ordinary skill in the art, and to understanding what might have or might not have been suggested. It is well accepted that the teachings in the prior art have to be considered as a whole for what they fairly teach to one of ordinary skill in the art.

In the last paragraph on page 10 of the above-identified Office Action, the Examiner stated, "Santos improves upon Duckett's invention by organizing the recorded user interactions into segments or demographics prior to replaying the user behaviors (Santos, 0014). In other words, where Duckett discloses simply replaying recorded actions, Santos discloses replaying *organized*

recorded actions, i.e. recorded actions correlated to specific segments or demographics.”

Appellant believes that when one considers the teachings in Duckett et al. and in Santos et al. it is clear that one of ordinary skill in the art would not have been motivated to perform the allegedly obvious modification.

Santos et al. teach creating behavior models 56 for different customer segments by analyzing stored customer data, which may include customer interactions with a website (paragraph 14). The simulated transactions that will be performed in accordance with the behavior model 56 depend on the particular customer segment being represented by the model (paragraph 20). Each behavior model 56 then simulates transactions that a typical member of a particular customer segment would perform in order to evaluate the performance of a website. Based on the performance of the particular website in performing the transactions, the website is automatically rated as to how it will perform for members of the particular customer segment (paragraphs 19 and 21).

Paragraph 157 of Duckett et al. teach that many of the scripts (recorded actions) may be replayed at high speed and/or multiplied to give the effect of many users simultaneously attempting to use the same system. The intent of Duckett et al. is to load test a website.

If one organized the scripts of Duckett et al. into one particular customer segment and then replayed the scripts for that segment, the website undergoing testing would be load tested for actions corresponding to only that customer segment. In effect, a large number of the very same transaction(s) would be performed at the same time by the scripts. However, that is not an accurate load test since in actual use many different types of users will access the website at the same time and will perform different types of transactions and interactions.

Appellant believes that there is no reason to break up the scripts, which perform the load testing in Duckett et al., into separate

customer segments and that doing so would be undesirable since it would result in an inaccurate and unrealistic load test.

Moreover, Appellant believes that the teaching in Santos et al. provides no motivation to break up the scripts, which perform the load testing in Duckett et al., into separate customer segments. This is because Duckett et al. is actually concerned with load testing a website, whereas Santos et al. does not load test a website, but rather tests the performance of a website for a particular customer segment in order to rate the performance of the website for that customer segment. Santos et al. provides no motivation to perform the load testing of Duckett et al. for only one particular customer segment. As has been discussed, such an approach would have resulted in an inaccurate and unrealistic load test.

Claim 12:

The Examiner states that Appellant's assertion that the behavioral model of Santos et al. would have to be displayed is improper. Appellant disagrees. The creation of the behavioral model of Santos et al. has apparently been equated with the claimed step of

“statistically compiling the recalled stored actions”. The next step of claim 12 recites, “presenting the statistically compiled stored actions in at least one browser simulation being displayed on a display”. Appellant believes that in order to read that next step of claim 12, the behavioral model of Santos et al. would have to be displayed.

However, Rowely et al. certainly do not suggest displaying the behavioral model. Rowley et al. teach displaying the communication sessions.

Rowley et al. teach that the display is “what the user saw in the communication, or a display of both the user’s prior display and other control information” (column 2, lines 26-28). Rowley et al. might have suggested displaying the communication sessions that took place between users and websites in order to obtain the customer data that is stored in the database 14 and used to create the behavioral models of Santos et al. (See paragraph 14 of Santos et al.).

Further, even though this would not have resulted in the claimed invention, appellant believes that Rowley et al. do not even suggesting displaying the actions of the behavioral model. The actions that the behavioral model causes to occur are not actual communication sessions between a computer user and a network source. The actions of the behavioral model are fixed; they will not change over time. Further, the behavioral model of Santos et al. is used to obtain an objective rating without subjective human intervention. It is not clear what advantage could be obtained by displaying the actions of the behavioral model when the actions are automatically evaluated in order to obtain the rating.

Claim 14:

With respect to Rowley et al., the Examiner alleges that “the combination of the simulation engine and the control engine read on the claimed “data mining system”.”

It is well known that data mining is a process in which data is searched and evaluated to extract patterns from the data. The control engine 201 of Rowley et al. only sorts and decodes packets

(column 3, lines 51-59). No data mining is being performed. The simulation engine 204 of Rowley et al. merely acquires the packets from the control engine 201 and sends the packets to the display engine 206 if the packets can be interpreted by the display engine 206 or may create a protocol specific display page (column 5, lines 48-65). Patterns are not being extracted from the packets.

Contrary to the assertion of the Examiner, the simulation engine 204 and the control engine 201 do not form a data mining system.

Respectfully submitted,

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MPW:cgm

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